

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

CARDSOFT (ASSIGNMENT FOR THE  
BENEFIT OF CREDITORS), LLC,

*Plaintiff,*

V.

FIRST DATA CORPORATION,  
FIRST DATA MERCHANT SERVICES  
CORPORATION, AND  
TASQ TECHNOLOGY, INC.,

**Civil Action No. 2:13-CV-00290-JRG  
JURY TRIAL DEMANDED**

### *Defendants.*

**DECLARATION OF DIANA M. RUTOWSKI IN SUPPORT OF  
DEFENDANTS' MOTION TO STRIKE PORTIONS OF PLAINTIFF'S REVISED  
INFRINGEMENT CONTENTIONS UNRELATED TO VIRTUAL MACHINE**

I, Diana M. Rutowski, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this Declaration, except as otherwise stated. I am competent to testify as to all matters stated, and if called upon to do so, I would testify to the facts set forth in this Declaration.
2. I am an attorney at Orrick, Herrington & Sutcliffe LLP, counsel for Defendants First Data Corporation, First Data Merchant Services Corporation, and TASQ Technology, Inc. (collectively, “First Data” or “Defendants”) in this action. I submit this declaration in support of Defendants’ Motion to Strike Portions of Plaintiff’s Revised Infringement Contentions Unrelated to Virtual Machine.
3. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff’s Disclosure of Asserted Claims and Preliminary Infringement Contentions dated August 2, 2013.
4. Attached hereto as **Exhibit B** is a true and correct copy of an email chain in June and July 2014 between me and Barry Golob, counsel for CardSoft.

5. Attached hereto as **Exhibit C** is a true and correct copy of Plaintiff's Supplemental Disclosure of Asserted Claims and Infringement Contentions dated August 1, 2014.

6. Attached hereto as **Exhibit D** is a true and correct copy of an email from me to Chad Stouffer and Barry Golob, dated August 07, 2014.

7. Attached hereto as **Exhibit E** is a true and correct copy of CardSoft's Supplemental Appendix to its Infringement Contentions dated August 29, 2014

8. Attached hereto as **Exhibit F** is a true and correct copy of an excerpt from the October 14, 2014 motion hearing transcript in *CardSoft (Assignment for the Benefit of Creditors), LLC v. First Data Corporation*, No. 2:13-cv-00290-JRG (E.D. Texas).

9. Attached hereto as **Exhibit G** is a true and correct copy of Plaintiff's Revised Disclosure of Asserted Claims and Infringement Contentions dated June 29, 2015.

10. Attached hereto as **Exhibit H** is a true and correct copy of a redline document which compares CardSoft's August 2014 contentions with its June 2015 contentions.

11. Attached hereto as **Exhibit I** is a true and correct copy of an email from Nagendra Setty to Barry Golob, counsel for CardSoft, dated July 01, 2015.

12. Attached hereto as **Exhibit J** is a true and correct copy of a TechCrunch article announcing Clover.

13. Attached hereto as **Exhibit K** is a true and correct copy of a screen shot of the HARBORTOUCH website and a screen shot of the GlobalPAY website.

14. Attached hereto as **Exhibit L** is a true and correct copy of a redline document illustrating which portions of CardSoft's Revised Infringement Contentions should be stricken.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 23, 2015  
Menlo Park, California

/s/ Diana M. Rutowski  
Diana M. Rutowski